

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP  
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Attorney for WELLS FARGO BANK, N.A. AS SERVICING AGENT FOR US BANK NATIONAL  
ASSOCIATION, AS TRUSTEE FOR MASTR ALTERNATIVE LOAN TRUST 2004-13 ITS ASSIGNS  
AND/OR SUCCESSORS IN INTEREST

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

IN RE:	§	CASE NO. 13-70310-HDH-7
	§	
NEIL THOMAS STEFANSKY,	§	
Debtor	§	CHAPTER 7
	§	
WELLS FARGO BANK, N.A. AS	§	
SERVICING AGENT FOR US	§	
BANK NATIONAL ASSOCIATION,	§	
AS TRUSTEE FOR MASTR	§	
ALTERNATIVE LOAN TRUST	§	
2004-13 ITS ASSIGNS AND/OR	§	
SUCCESSORS IN INTEREST,	§	
Movant	§	HEARING DATE: 11/20/2013
	§	
v.	§	TIME: 10:00 AM
	§	
NEIL THOMAS STEFANSKY; SHAWN	§	
K. BROWN, Trustee	§	
Respondents	§	JUDGE HARLIN D. HALE

**MOTION OF WELLS FARGO BANK, N.A. AS SERVICING AGENT FOR US BANK  
NATIONAL ASSOCIATION, AS TRUSTEE FOR MASTR ALTERNATIVE LOAN  
TRUST 2004-13 ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST  
FOR RELIEF FROM STAY OF ACTION AGAINST DEBTOR(S) PURSUANT TO 11  
U.S.C. § 362(a) AND WAIVER OF THIRTY DAY REQUIREMENT PURSUANT TO  
§ 362(e)**

**NOTICE - RESPONSE REQUIRED**  
**PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS  
REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY  
BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT  
MAY BE ENTERED BY DEFAULT.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT EARLE CABELL U.S. COURTHOUSE, 1100 COMMERCE STREET, IN ROOM 1254, DALLAS, TX 75242-1003 BEFORE CLOSE OF BUSINESS ON NOVEMBER 01, 2013, WHICH IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED.**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, WELLS FARGO BANK, N.A. AS SERVICING AGENT FOR US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MASTR ALTERNATIVE LOAN TRUST 2004-13 ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST, by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about August 27, 2013, Debtor (hereinafter "Debtor") filed a petition for an order of relief under Chapter 7 of the Bankruptcy Code, 11 U.S.C.
3. At the time of filing the Chapter 7 petition, Movant held a Note executed on September 23, 2004, by NEIL THOMAS STEFANSKY in the original amount of SEVENTY-FOUR THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS (\$74,500.00) with interest thereon at the rate of 7.375% per annum. A true and correct copy of the Note is attached hereto as Exhibit "A".
4. The indebtedness is secured by a Mortgage dated September 23, 2004 and executed by NEIL THOMAS STEFANSKY on real estate with all improvements known as:  
  
SITUATED IN THE CITY OF CANTON, COUNTY OF STARK AND STATE OF OHIO:  
  
AND KNOWN AS BEING LOT NO. 26537 IN SAID CITY, BE THE SAME

MORE OR LESS BUT SUBJECT TO ALL LEGAL HIGHWAYS.

3715 FAIRMOUNT BOULEVARD NE  
CANTON, OH 44705

02-20761

A true and correct copy of the Mortgage is attached hereto as Exhibit "B".

5. Debtor has failed to maintain current the payments due under the Note and is presently in arrears for 9 payments through and including the October 1, 2013 payment.

6. The outstanding indebtedness to Movant is \$66,790.29 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Note and Mortgage.

7. In accordance with the terms of the Note and Mortgage, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

8. Debtor has failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(a).

9. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Mortgage.

10. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

11. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant; alternatively, Movant be made whole by having all payments brought current. Movant further prays that the Court waive the provision of

Rule 4001 (a) (3) and that WELLS FARGO BANK, N.A. AS SERVICING AGENT FOR US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR MASTR ALTERNATIVE LOAN TRUST 2004-13 ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

BY: /s/ JEFF FLEMING

10/18/2013

JEFF FLEMING  
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ATTORNEY FOR MOVANT

**CERTIFICATE OF CONFERENCE**

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, represents the creditor on the foregoing Motion. The undersigned, an attorney, employed by BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, states that prior to filing the foregoing motion he/she did the following:

Made a good faith effort to negotiate a settlement of the dispute with Debtor's Counsel and/or the Trustee.

NOTES: Jeff Fleming spoke with a representative for Debtor's counsel, who indicated based on the Debtor's Statement of Intent, there was no opposition.

Date of Conference Call: October 01, 2013 1:54 p.m.

BY: /s/ JEFF FLEMING 10/18/2013  
JEFF FLEMING  
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ATTORNEY FOR MOVANT

**CERTIFICATE OF SERVICE**

I hereby certify that on October 18, 2013, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

/s/ JEFF FLEMING 10/18/2013

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ATTORNEY FOR MOVANT

**DEBTORS:**

NEIL THOMAS STEFANSKY  
2300 ROBERTS AVE  
WICHITA FALLS, TX 76301

NEIL THOMAS STEFANSKY  
3715 FAIRMOUNT AV NE  
CANTON, OH 44705

**TRUSTEE:**

SHAWN K. BROWN  
P.O. BOX 93749  
SOUTHLAKE, TX 76092

**US TRUSTEE:**

1100 COMMERCE STREET, ROOM 976  
EARLE CABELL FEDERAL BLDG  
DALLAS, TX 75242

**DEBTOR'S ATTORNEY:**

MONTE J WHITE  
1106 BROOK AVENUE  
WICHITA FALLS, TX 76301

**PARTIES IN INTEREST:**

STARK COUNTY AUDITOR  
110 CENTRAL PLAZA SOUTH STE 22  
CANTON, OH 44702

**PARTIES REQUESTING NOTICE:**

None